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EXAMINER

YENKE, BRIAN P

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/645,048
Filing Date: August 21, 2003
Appellant(s): SCHEDIVY, GEORGE C.

Michael F. Morano,
44,952
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 03/23/09 appealing from the Office action mailed 09/19/08.

This is in response to the appeal brief filed 27 March 2006 appealing from the Office action mailed 03 March 2006.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying that no related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments

All amendments have been entered.

(5) Summary of Invention/Claimed Subject Matter

The summary of invention contained in the brief is correct.

(6) Grounds of Rejection To Be Reviewed On Appeal

The appellant's statement on the grounds of the rejection in the brief is correct.

(7) Claims 1-2, 5-25, 27-28 and 38 (Appendix)

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal:

US 2003/0226148	Dec 2003
US 2002/0149708	Oct 2002
US 6,724,317	Apr 2004
US 6,865,075	Mar 2005

(9) Grounds of Rejection

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-29 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson, US 2003/0226148 in view of Nagata et al., US 2002/0149708, Kitano et al., US 6,724,317 and Oakley, US 6,865,075.

In considering claims 1, 7, 9, 11, 13 and 15,

a) *the claimed hood*...is met by Ferguson which discloses a vehicle seat cover (hood) which is connected to a FM transmitter 14 and DVD player 20 (Fig 3b). Ferguson discloses that a port may connect a game device, and where adapter 19 may be plugged into the cigarette lighter or auxiliary power connector of the vehicle.

Regarding the behind the display, although Ferguson discloses a system where the media device is below the display, the integration of the display/media device is conventional in the art, based upon designers needs/size/requirements.

Nonetheless the examiner will rely upon Nagata which discloses such a media device where the DVD/media player 6 (Fig 6) is physically behind the display 2.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Ferguson which discloses a hood sized entertainment system, by incorporating such integrated devices which obviously take up less room than if separated.

Although the Ferguson/Nagata combination do not explicitly recite the concept of providing displays within a seat/headrest that rotate (i.e. pivotal doors) which is a conventional practice in the art to allows the passengers to raise/lower/position the screen to a desired position/angle

The examiner evidences such by incorporating Kitano et al., US 6,724,317, which discloses that it is known to have pivotal displays (i.e. that rotate) either in the headrest, the console or the ceiling of the vehicle, wherein the display/media devices/players are mounted to a door/pivoting device which is secured/mounted to a structure/base.

Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the media device/display within a vehicle seat cover (hood) as done by Ferguson/Nagata by also utilizing conventional capabilities such as pivoting, wherein the media player/display may be rotated according to the occupant of the seat/vehicle.

Regarding the newly added, the display being mounted on an outside...., the combination above does not disclose this conventional feature. However, the concept of allowing a device which includes a display cover/screen to be viewed in an open state or closed state is conventional in the art. The examiner incorporates Oakley, US 6,865,075 which discloses such a feature, wherein as shown in Fig 12, the display screen is positioned to be viewable in a closed/stowed position. This would provide the claimed display in a closed position and provide access to the player/device in the open positions as claimed.

In considering claim 2,

Ferguson discloses a video 13 which is located within the seat cover as shown, where the display includes the claimed hood/cover and claimed frame (structure to fit in opened portion) to place in the hood.

In considering claim 1 6,

Ferguson discloses a plurality of media components (Fig 3b) connected to the cover/hood, wherein the DVD appears to be stationary, wherein the claimed docking station, base portion are met by the above elements.

In considering claim 5,

Ferguson discloses a DVD player meeting the slot-type device.

In considering claim 8,

Ferguson discloses a transmitter including a tuner/antenna however Ferguson does not explicitly recite a wireless optical transmitting device, although such device is an off the shelf/conventional item which may be incorporated into a system by design in order to provide the user use of conventional transmitters (LED, lasers etc...) to transmit the information optical wirelessly, thus the examiner takes "OFFICIAL NOTICE" regarding such.

In considering claim 10,

Ferguson disclose a display 13, where given the broadest interpretation of the claim, a cover (screen) is provided.

In considering claim 12,

Ferguson disclose a display 13 which is controlled to display either a DVD or game as desired/controlled/inserted/selected by the user.

In considering claim 14,

Ferguson discloses straps 21 which are used to tighten the cover to the seat/headrest, although the claim recited "drawstrings", regardless of the name of the element, they perform the same function, thus anticipating the claim.

In considering claim 16,

See claim 6 above.

In considering claim 17,

See claim 7 above.

In considering claim 18,

See claim 8 above.

In considering claim 19,

See claim 9 above.

In considering claim 20,

See claim 10 above.

In considering claim 21,

See claim 11 above.

In considering claim 22,

See claim 12 above.

In considering claim 23,

See claim 13 above.

In considering claim 24,

See claim 12 above.

In considering claim 25,

See claim 14 above.

In considering claims 27-28

Kitano discloses the concept of when the door is opened (i.e. display is pivoted/rotated accordingly) access to the media device is provided, wherein the user has access to media control (i.e. loading point).

In considering claim 38,

Refer to claims 1, 27 above.

(10) Response to Arguments

Appellant's Arguments

a) Appellant argues that the examiner combination of reference does not disclose the display that is mounted on/positioned on an outside surface of the pivoting door, and the media player that is mounted on/positioned on an inside surface of the door opposite the outside surface.

b) Appellant argues that the reliance upon Naga, Kitano and Oakley to support Ferguson is misplaced. Appellant argues that Nagata, Kitano and Oakley fail to disclose or suggest the display is mounted on an outside surface of the pivoting door and the media player is mounted on an inside surface of the doors opposite the outside surface.

c) Appellant argues that without benefit of hindsight, one of ordinary skill in the art would not have developed the claimed display that is mounted/positioned on an outside surface of the pivoting door, and the media player that is mounted/positioned on an inside surface of the door opposite the outside surface.

d) Appellant argues that there is no motivation to modify Ferguson in the manner suggested by the examiner for at least the reasons that the proposed modification to Ferguson would render the device unsatisfactory or change the principle operation of Ferguson. Appellant states that the intended purpose of Ferguson is using a video reproducer that can be freely changed and removed.

e) Appellant argues that claim 6 recites a docking station attached to the hood wherein the base portion is selectively coupled to the docking station and wherein the base portion can be selectively decoupled from the docking station.

f) Applicant argues that claim 27 recites the display is coupled to the media player through an opening in the door which is not disclosed by Kitano.

Examiner's Response

a) The examiner disagrees. As pointed out in the rejection Kitano was incorporated to evidence the conventional feature of having a pivotal displays/doors (i.e. that rotate) either in the headrest, console or ceiling of the vehicle, wherein the display/media devices/players are mounted to a door/pivoting device which is secure/mounted to a structure/base (Fig 4, 6, 10a/b)

b) The examiner disagrees. As stated in the rejection, Oakley discloses a system wherein the computing apparatus, which may be a notebook computer, laptop, etc (col 4, line 53-62). Oakley discloses that the display device (314) , keyboard (313) , base housing (312) wherein the pivoting/rotating of the elements may place the display on top (Fig 12, viewable but stowed position) or closed/non-viewable (Fig 13) or where the keyboard is place as shown (Fig 11). The examiner notes that the various components are secured to various axis/hinges (817/818 Fig 8) where the display/housing (notebook computer, player) placed (i.e. the claimed mounted) to each other via the hinges, where the display and player (computer housing) may be placed (mounted) on the inside/outside surface of each other if so desired by the user.

It is also noted that the applicant's background discloses that the problem with prior art, is that the media device was not removable from the vehicle since they were located in the glove box. Obviously the combination of the above references discloses the portability (ability to remove) such devices from the vehicle since their are part of the same device.

c) In response to appellants argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

d) The examiner disagrees. Ferguson discloses a removable vehicle audio-video system without the need for cumbersome wiring installations. Ferguson was utilized to evidence the concept of a removable vehicle display device in the form of a cover (seat or headrest) meeting the hood as claimed. The examiner disagrees with the appellant wherein based upon appellants that modifying Ferguson would defeat the purpose of Ferguson. Quite the contrary, in this instance the modification of Ferguson would sustain the original benefit sought, a removable/integrated vehicle audio-visual system.

e) The examiner disagrees. Ferguson discloses a plurality of components connected to the cover/hood wherein the DVD player may be removed (decoupled) from the pouch 15. The examiner notes to the Board and Appellant that this limitation was given the broadest reasonable interpretation, wherein the combination of references provides the coupling (via an open or closed position) in the event the appellant wishes to pursue such docking station and base portion as described in the disclosure, the examiner notes US 20060109388, Sanders et al, which discloses the use of a vehicle display which may be docked using a docking station in the vehicle or outside the vehicle (Fig 5, 8a, 8b, 9, 10 16).

f) The examiner disagrees. Kitano discloses that when the door/display are pivoted/opened access to the media device is provided. The claims states that the display is coupled to the media player through an opening in the door (i.e. in opening the door) (the claim does not say a hole, or opened center section as described in the disclosure). When the

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door/display of Kitano is opened using a rotational operation and rectilinear operation of the display panel 14 (col 6, line 3-19), wherein the rotational range is defined between a state (home-position) wherein the monitor is parallel to the ceiling (housed in the cover) and a play state position. Also, noted is incorporated Oakley (Figs 11-13) which provides the user access to the media device or not when the display is opened (partially Fig 11, fully Fig 12 or closed (Fig 13). The examiner also notes that the appellant's disclosure discloses numerous embodiments wherein the appellant's invention is the video system hood which can be transferred from one vehicle to another. The examiner also notes that the appellant's own disclosure states that securing a the door to the display can be done by many ways including other means known to those skilled in the art (page 15, line 19 to page 16, line 4) in addition to securing the other components of the system (docking station to the hood), thus supporting the examiner's position that there are a myriad number of ways to connect/couple/mount elements together.

(11) Related Proceeding Appendix

None.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

BPY
July 29, 2009

/BRIAN P. YENKE/
Primary Examiner, Art Unit 2622

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